

DECISION

24372
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

FILE: B-210609.2**DATE:** February 25, 1983**MATTER OF:** Clements National Company**DIGEST:**

Protest filed with GAO more than 10 working days after the protester learns of initial adverse agency action on its protest filed with the agency is dismissed as untimely.

Clements National Company (Clements) protests the award of a contract to Mastercraft Industries (Mastercraft) under invitation for bids (IFB) No. 9FCB-OLK-A-A0641/82, issued by the General Services Administration (GSA), Region 9, San Francisco, California.

We dismiss the protest as untimely.

The IFB solicited bids for a commercial vacuum cleaner. Bids were opened on August 13, 1982. By letter of November 8, 1982, Clements filed a protest with the contracting officer, arguing that Mastercraft did not comply with the specifications. GSA, however, dismissed Clements' protest as untimely. In a letter dated December 2, 1982, GSA explained that Clements should have filed its protest no later than 10 working days after the August 13 bid opening. On February 7, 1983, Clements filed a protest with our Office arguing that its protest to the contracting officer was timely since it was filed 3 days after it learned the basis for its protest--that is, 3 days after it received a sample unit from Mastercraft and upon inspection discovered that Mastercraft's unit did not meet the IFB's specifications.

Under our Bid Protest Procedures, if a protest is filed initially with the contracting agency, any subsequent protest to our Office must be filed within 10 working days of notification of initial adverse agency action. 4 C.F.R. § 21.2(a) (1982). Since Clements was advised by GSA's December 2, 1982, letter that its protest to the agency was dismissed as untimely, this constituted initial adverse agency action requiring any subsequent protest to our Office to be filed within 10 working days after Clements' receipt of the GSA letter. As noted above, Clements' protest to our Office was received on February 7, 1983. This was clearly

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more than 10 working days after Clements learned of the GSA decision and, therefore, its protest to our Office is also untimely. Afri-American Supply Company, B-206137, February 17, 1982, 82-1 CPD 141.

Protest dismissed.

For *F. H. Barclay, Jr.*
Harry R. Van Cleve
Acting General Counsel